

A.G. Contract No.: KR04-1639TRN
ECS File No.: JPA 04-108
Project No.:
Section: SR 202L at I-10 T.I.
Project: SRP Irrigation Siphon
TRACS No.: H6625 01C
Budget Source Item No.: 82805
City No.: 114636

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
CITY OF PHOENIX

THIS AGREEMENT is entered into this date February 16, 2005, pursuant to Arizona Revised Statutes § 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF PHOENIX, acting by and through its CITY MANAGER (the "City")

1. The State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has delegated the undersigned the authority to execute this Agreement on behalf of the State.

2. The City is empowered by Chapter II, Section 2 (i) of the City Charter to enter into this Agreement and has by Resolution or City Ordinance, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.

3. The State and the City desire to participate in the design and construction of an irrigation siphon and associated facilities across and under SR 202L and the Santan Freeway east of 48th Street hereinafter referred to as the "Project". The State will construct a 30" reinforced concrete pipeline from the existing 48th Street irrigation lateral along the State's right-of-way fence, under the freeways north storm water collection channel, ramp South-West, the SR 202L mainline and ramps East-North and East-South, encased in a 60" diameter steel sleeve for the segment under the roadway and ramp alignments. The 30" irrigation pipeline will continue to the east and south approximately 2,642 feet to an existing discharge point as shown on Exhibit A, attached hereto and made a part hereof. The City will participate at a cost, not to exceed \$551,365.00. Maintenance of the Project will be done by the Salt River Project.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

NO. 27377
Filed with the Secretary of State
Date Filed: 02/16/05

Janice K. Brewer
Secretary of State

By: Darryl D. Graenewald

II. SCOPE OF WORK

1. The State will:

a. Prepare design plans, specifications and other such documents and services required for construction bidding and construction and submit them to the City for review.

b. Call for bids and award one or more construction contracts for the Project. Administer it and make all payments to the contractor(s). Be responsible for contractor claims for additional compensation caused by project delays attributable to the State.

c. Upon execution of this Agreement and within thirty-days (30), invoice the City for an amount not to exceed \$551,365.00 for the Project.

2. The City will:

a. Upon execution of this Agreement and within 30 days of receipt of an invoice, remit to the State an amount not to exceed \$551,365.00 for the cost of the Project.

b. Review the design documents required for construction of the Project, and provide comments to the State.

c. Be responsible for additional costs, for work requested by the City, associated with the Project. Be responsible for any cost increases and any contractor claims for additional compensation caused by project delays attributable to the City.

III. MISCELLANEOUS PROVISIONS

1. This Agreement shall remain in full force and effect until completion of the work contemplated herein and reimbursements provided, however, that this Agreement, except any provisions herein for maintenance, which shall be perpetual, may be cancelled at any time prior to the commencement of performance, upon thirty-day (30) written notice to the other party.

2. This Agreement shall become effective upon filing with the Secretary of State.

3. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

4. The provisions of Arizona Revised Statutes § 35-214 are applicable to this Agreement and both the City and the State shall be afforded the rights, interests and privileges as provided therein, provided however, that should the City make a reasonable request to inspect the records of the State relating to this Project, such records will be produced at a time and location convenient to both parties.

5. In the event of any controversy, which may arise out of this Agreement, the parties hereby agree to abide by Arizona Revised Statutes § 12-1516 as applicable.

6. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable Federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

7. Non-Availability of Funds: Every payment obligation of the State and City under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State or the City as applicable at the end of the period for which the funds are available. No liability shall accrue to the State or the City in the event this provision is exercised, and the State and City shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

8. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue – Mail Drop 616E
Phoenix, AZ 85007
(602) 712-7525

City of Phoenix
Attn: Ray Dovalina
200 W Washington – 5th Floor
Phoenix, AZ 85003-1611

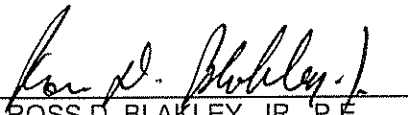
9. Pursuant to Arizona Revised Statutes § 11-952, (D) attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

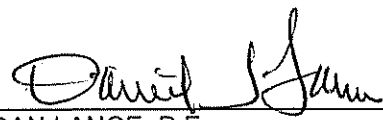
IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

CITY OF PHOENIX

STATE OF ARIZONA

Department of Transportation

By 
ROSS D. BLAKLEY, JR., P.E.
Acting Street Transportation Director

By 
DAN LANCE, P.E.
Deputy State Engineer, Valley Transportation

ATTEST:

By 
VICKY MIEL
City Clerk



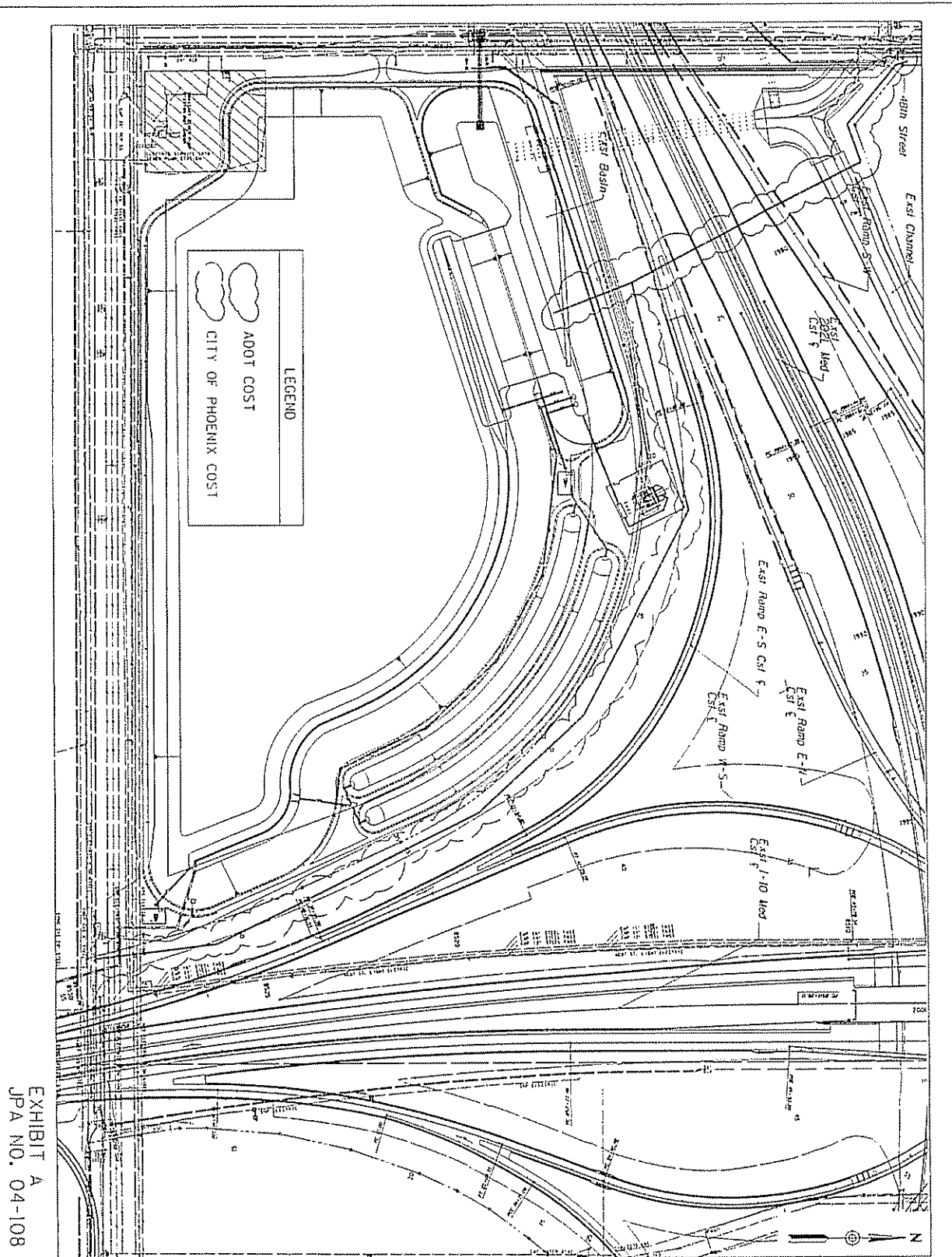


EXHIBIT A
JPA NO. 04-108

**CITY OF PHOENIX
REQUEST FOR COUNCIL ACTION**

Complete this form per O.P. 1.906 and A.R. 4.11.
Refer to the **City Council Agenda Process Reference Guide for Assistance**

ACTION REQUESTED	Formal Action: <input type="checkbox"/> Bid Award <input type="checkbox"/> License Application <input type="checkbox"/> Public Hearing <input type="checkbox"/> Other	OR	Legal Document: <input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution Emergency Clause? <input type="checkbox"/> (for use only w/ord. or res. requests)
IMPACTED DISTRICT(S)	DISTRICT 6		ADDITIONAL BACKUP MATERIAL SENT UNDER SEPARATE COVER? <input type="checkbox"/>
SUBJECT	INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF PHOENIX & AZ DEPT OF TRANSPORTATION FOR THE SRP IRRIGATION SIPHON		
REQUESTED AGENDA DATE	11/3/2004	PREPARED BY	Name: Ray Dovalina, P. E. Department: Street Transportation Phone: 262-4057
APPROVALS	Division Head: Department Head:	J. Donald Herp, P. E. Ross D. Blakley, Jr. (Acting)	If prepared for another department: Department Name: Approval:
BID AWARD INFORMATION	Bid Surety Required? <input type="checkbox"/> Submitted by Low Bidder? <input type="checkbox"/> Contract Required? <input type="checkbox"/>	Performance Surety Required <input type="checkbox"/> Amount? _____ Requisition No. _____	
CONTRACT INFORMATION	Contract Amendment? <input type="checkbox"/> If Yes, Current Contract No. _____ Approved by: Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Formal Action <input type="checkbox"/> on Date: _____		
BUDGET INFORMATION	\$ 551,365.00 To Be Encumbered? <input checked="" type="checkbox"/> Source of Funds: Fiscal Year? 2005 1988 Bonds Fund 0163 Fund Center(s) (SAP-FM): ST83130231 Commitment Item(s) (SAP-FM): 510130 Availability of Funds Approval Mark Cernetic		
CITY MANAGER'S OFFICE	Approved by Sheryl Sculley		CM Control No. 18
CITY CLERK DEPARTMENT	Council Action Taken: Adopted Ordinance Number: S-31493 Resolution Number: _____ Comments: _____		
		RCA No. 46624 Contract No. _____ Meeting Date 11/3/2004 Item No. 76	

ITEM**DISTRICT 6****INTERGOVERNMENTAL
AGREEMENT WITH THE CITY
OF PHOENIX & AZ DEPT OF
TRANSPORTATION FOR THE
SRP IRRIGATION SIPHON**

Request to authorize the City Manager to enter into an Intergovernmental Agreement (IGA) with the Arizona Department of Transportation (ADOT) for design and construction of an irrigation siphon and associated facilities across and under State Route 202 Loop and the Santan Freeway east of 48th Street and approval for the City Controller to disburse funds.

This will eliminate the continuous irrigation tailwater entering the Pecos Basin at 48th Street south of the Pecos Road/Loop 202.

Financial Impact

The total cost for these improvements is estimated at \$1,300,000 which includes \$551,365 of the City's share and \$748,635 of ADOT's share.

Funding will come from the department's 1988 Storm Sewer Bonds Fund 0163.

ORDINANCE NO. S-31493

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF ARIZONA THROUGH THE ARIZONA DEPARTMENT OF TRANSPORTATION TO DESIGN AND CONSTRUCT A SALT RIVER PROJECT IRRIGATION SIPHON UNDER AND ACROSS STATE ROUTE 202 LOOP AND THE SANTAN FREEWAY; AND FURTHER AUTHORIZING THE CITY CONTROLLER TO DISBURSE FUNDS FOR PURPOSES OF THIS ORDINANCE.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PHOENIX as follows:

SECTION 1. The City Manager is authorized to enter into an intergovernmental agreement with the State of Arizona through the Arizona Department of Transportation to design and construct a Salt River Project irrigation siphon and associated facilities across and under the State Route 202 Loop and the Santan Freeway east of 48th Street.

SECTION 2. The City Controller is authorized to disburse funds in the amount of FIVE HUNDRED FIFTY-ONE THOUSAND THREE HUNDRED SIXTY-FIVE DOLLARS (\$551,365.00) for purposes of this Ordinance.

PASSED by the Council of the City of Phoenix this 3rd day of November,
2004.



MAYOR

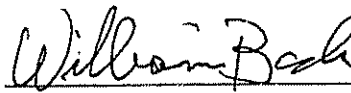
ATTEST:



City Clerk



APPROVED AS TO FORM:

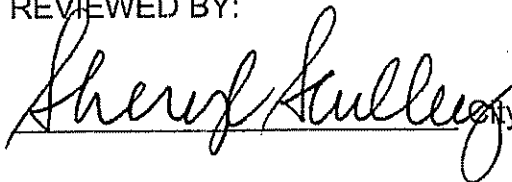


ACTING

City Attorney



REVIEWED BY:



ACTING

City Manager

2004 NOV -2 AM 11:28

CITY CLERK DEPT.



DLB:tml/CM 18/11-3-04/171902v1

APPROVAL OF THE CITY OF PHOENIX

I have reviewed the above referenced intergovernmental Agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the CITY OF PHOENIX and declare this Agreement to be in proper form and within the powers and authority granted to the CITY under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this 24 day of January, 2005.

ACTING MB City Attorney Jose W. Sean



OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

TERRY GODDARD
ATTORNEY GENERAL

CIVIL DIVISION
TRANSPORTATION SECTION
WRITER'S DIRECT LINE: 602.542.8859


INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR04-1639TRN (**JPA 04-108**), an Agreement between public agencies, i.e., The State of Arizona and City of Phoenix, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: February 9, 2005

TERRY GODDARD
Attorney General



Jeffrey T. Murray
Assistant Attorney General
Transportation Section